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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

FRIENDS OF ANIMALS, }
Plaintiff, }
v. } Case No.: 3:22-cv-00365-ART-CLB
DEB HAALAND and U.S. BUREAU OF }
LAND MANAGEMENT, }
Defendants. }

FEDERAL DEFENDANTS' RESPONSE
TO PLAINTIFF'S MOTION FOR
STATUS CONFERENCE

1 Federal Defendants respectfully submit this response to Plaintiff's Motion for Status
2 Conference (ECF No. 38) ("Plaintiff's motion"). Federal Defendants recognize that it is within the
3 Court's discretion whether to convene a status conference and are prepared to do what the Court
4 deems most appropriate. However, Federal Defendants do not believe Plaintiff's request is
5 appropriate.

6 Plaintiff seeks a status conference "to determine whether a motion for a preliminary injunction
7 is appropriate and schedule briefing on such motion if needed." Pl. Mot. 1. The purpose for this
8 request is to solicit this Court's commitment to issue a decision on the parties' motions for summary
9 judgment before July 7, 2023 or else Plaintiff will file a motion for preliminary injunction. *See* Pl.
10 Mot. 4. Briefing of the parties' cross-motions for summary judgment closed just this week with
11 Federal Defendants filing of their reply brief on June 5, 2023 (ECF No. 37).

12 Plaintiff's threatened motion for a preliminary injunction is untimely, and any purported
13 urgent need for a decision is a self-inflicted injury. Plaintiff's motion makes clear that Plaintiff has
14 known all along that gathers of excess horses generally occur each year beginning in July. Pl. Mot. 2.
15 At the outset of this case, the parties jointly proposed a schedule (which the Court adopted) under
16 which dispositive motion briefing was to close on May 4, 2023. On March 15, 2023, the Court
17 granted (over Plaintiffs' objection) a one-month extension of the briefing schedule (for good cause
18 shown as a result of Government counsel's illness), to be concluded on June 5. *See* ECF No. 33. Even
19 under the original schedule it would be unreasonable to expect this Court to hold oral argument and
20 issue a decision within the deadline they are now seeking to impose on the Court, *i.e.*, by July 7,
21 2023. Moreover, the proposed schedule included a briefing period for resolving disputes over the
22 completeness of the administrative record if such disputes could not be informally resolved. *See* ECF
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1 No. 21 at 4. Briefing on any such dispute would not have been completed until March 29, 2023, and
2 summary judgment briefing would not have begun until after a decision on the record motion. *Id.*
3 Clearly, Plaintiff could not have expected a decision within the time frame they now assert is
4 necessary if summary judgment briefing could have been postponed until sometime well after March
5 29, to resolve a records dispute.¹

6 Moreover, Plaintiff's anticipated motion for a preliminary injunction is meritless, both on
7 likelihood of success and on the equities.² Plaintiff cannot establish that the remedy of an injunction
8 is appropriate, let alone the extraordinary remedy of a preliminary injunction. In short, Plaintiff's
9 assertion of imminent, irreparable harm because it is "very likely that BLM will transport a
10 significant number of animals to the Winnemucca ORC" in connection with upcoming gathers is
11 speculative, self-inflicted, and without merit.

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21 ¹ The United States agreed informally to supplement the record despite having legitimate disputes,
thereby avoiding the necessity for record briefing which would have substantially extended the timing
of a decision on the merits.

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23 ² Plaintiff's motion further underscores that Plaintiffs' objective in this lawsuit is to collaterally attack
and prevent gathers of excess horses—separate and distinct decisions that are not before this Court,
and for which this Court cannot issue any remedy. Such decisions are subject to their own decision-
making processes and administrative records, which Plaintiff routinely challenges. See, e.g., *Friends*
of Animals v. Silvey, 353 F.Supp. 3d 991 (D. Nev. 2018) (challenging gather plan and removal of
excess horses from the Triple B and Antelope Complexes in Nevada).

1 Dated: June 9, 2023

Respectfully submitted,

2 TODD KIM
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4 Environment & Natural Resources Division
5 SETH M. BARSKY, Section Chief
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7 JASON M. FRIERSON
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11 /s/ Mark A. Pacella
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that service of the foregoing FEDERAL DEFENDANTS' RESPONSE TO
3 PLAINTIFF'S MOTION FOR STATUS CONFERENCE was made through the Court's electronic
4 filing and notice system (CM/ECF).

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6 Dated: June 9, 2023.

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9 */s/ Mark A Pacella*
10 Mark A. Pacella

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